

DIVISION OF REVENUE

TECHNICAL INFORMATION MEMORANDUM 87-2

01/21/87

DATE:

SUBJECT: Form 5402 - Realty Transfer Tax Return

and Affidavit of Gain and Value

Payment of Realty Transfer Taxes will no longer be documented by affixing a tax stamp to the deed at the time of recordation. The record of the payment of Realty Transfer Tax will be made by imprinting the deed and Form 5402 - Realty Transfer Tax Return and Affidavit of Gain and Value with a cash register impression. Form 5402 replaces the following forms: Affidavit of Value, Affidavit of Residence and Gain, and Affidavit of Non-Residence and Gain.

Effective March 1, 1987, all deeds presented for recording must have Form 5402 completed and attached. Deeds without Form 5402 will not be accepted for recording.

Section 5409 of 30 <u>Del. C.</u> and Section 9605 of 9 <u>Del. C.</u> require that information concerning the value of the property and residency of the seller be supplied at the time of recording. The above Sections state in pertinent part that every document presented to any Recorder of Deeds for recording shall set forth the true, full, and complete value of the property conveyed and shall state the reasons, if any, why such document is not subject to the Realty Transfer Tax. Additionally, no Recorder of Deeds shall accept for recording any deed without an Affidavit containing the following information about the seller.

- "(1) An adequate description of the seller including name, residence, address, social security number and principal place of business as appropriate.
- (2) Whether or not the seller is a nonresident individual, nonresident estate, nonresident trust or nonresident partner, as such terms are defined in Chapter 11 of Title 30, or, if the seller is a corporation, whether or not it is a foreign corporation.

- (3) The actual consideration received by the seller and whether or not he had a gain on the sale of the real estate to which title is purporting to be conveyed.
- (4) Within such affidavit the seller shall also authorize the Division of Revenue or such other appropriate state agency as may be designated to obtain any appropriate or necessary federal income tax forms, including their attached schedules or other attachments, and any other related papers filed by such seller which relate solely to the said real estate to which title is purported to be conveyed by the deed or instruction being recorded."

<u>Form 5402 - Realty Transfer Tax Return and Affidavit of Gain and Value</u> is available at the Division of Revenue and the Recorder of Deeds offices in all three counties.

Robert W. Chastant

Robert W. Chastant Director of Revenue



STATE OF DELAWARE
JEPARTMENT OF FINANCE
DIVISION OF REVENUE
820 N. French Street
P.O. Box 8750
Wilmington, Delaware 19899-8750

REALTY TRANSFER TAX RETURN AND

COSC MENTA DISCUTTURE

TIMA

PROPER SET REPEALS

DO NOT WRITE OR STAPLE IN THIS AREA

Rev. Code 05

DOCUMENT NO. 25-06/86/10/05

A CONTRACTOR OF THE PROPERTY O	must be completed for all conveyanc	es and must be presented a	t the time of recording.
PART A - TO BE COMPLETED Inter Employer Identification Number		umber of the Grantot	5. The Grantor is a:
Name of Grantor			Non-Resident Individual Domestic Corporation (Delaware)
Address			Foreign Corporation (Non-Delaw
		ter trace in the	S Corporation Government Agency
			Fiduciary (Estate or Trust)
City	Countý Zip Code		Partnership Non-Profit Corporation
State			TO DESCRIPTION OF A
A gain was was not _	realized on the sale of the re	eal estate conveyed.	
PART B - TO BE COMPLETED Enter Employer Identification Number	BY THE GRANTEE / BUYER or Social Security Num	aber of the Grantee	4. The Grantee is a:
			Resident Individual Non-Resident Individual
Name of Grantee			Domestic Corporation (Delaware)
Address			☐ Foreign Corporation (Non-Delawr
			Government Agendy
		12.440-15.00	Flouciery (Estate or Trust)
City	County		☐ Partnership ☐ Non-Profit Corporation
State	Zip Code		
PART C - PROPERTY LOCATION Address	ON AND VALUE		7. The Property is:
Address			
City	County		☐ Residential
	County ZIp Code	1,000	Other, Including property
State ***********************************	ZIP Code COMPUTATIO	ON OF THE TAX	Other, Including property primarily used in farming
Conveyances with consideration mortgages, liens, encumbrance was like kind property exchance conveyances without full consectate being conveyed. Was like the greater, Line 2 or Limultiply Line 4 times 2%	computation. Enter the amount of considerations, and any other good and valuable aged? Yes No (if yes, see Insideration. Enter the highest assessee kind property exchanged? Xes ine 3	on received including cash, consideration. structions.) d value (for local tax purpo No (If yes, see instruc	Diser, including property primarily used in familing checks,
Conveyances with consideration or transaction of the conveyances without full consectate being conveyed. Was like the greater, Line 2 or Limitiply Line 4 times 2% Tax Due and Payable with the Cart of the conveyance of the convey	COMPUTATION On. Enter the amount of considerations, and any other good and valuable aged? Yes No (if yes, see Insideration. Enter the highest assessee kind property exchanged? Yes are 3	on received including cash, consideration. structions.) d value (for local tax purpo	Other, Including property primarily used in saming checks, \$
Conveyances with consideration or transactions, encumbrance was like kind property exchanges the kind property exchanges to the conveyances without full consistate being conveyed. Was like the greater, Line 2 or Limitiply Line 4 times 2% fax Due and Payable with the CART D - EXEMPT CONVEYAN If transaction is exempt from a complete and accounts and extends to the complete and accounts and extends the complete and accounts and extends the complete and accounts and extends the complete which relate solely to the	COMPUTATION. Enter the amount of considerations, and any other good and valuable aged? Ves No (if yes, see Insideration. Enter the highest assessed kind property exchanged? Ves ine 3 recording of this document. ICES on Realty Transfer Tax, be certain the xplain the basis for the exemption. Division of Revenue or such other approrms, including their attached scheduling and real estate to which title is purpo	on received including cash, consideration. attructions.) d value (for local tax purpo	Diher, Including property primarily used in saming checks, checks, ses) of the real chions, (including market value of the real end of the
Conveyances with consideration or transactions was like kind property exchanges like kind property exchanges take being conveyed. Was like the greater, Line 2 or Limitiply Line 4 times 2% fax Due and Payable with the CART D - EXEMPT CONVEYAN If transaction is exempt from a complete and accounts and extended to the complete and accounts and extended the complete and accounts and a	COMPUTATION. Enter the amount of considerations, and any other good and valuable aged? Yes No (if yes, see Insideration. Enter the highest assessee kind property exchanged? Yes interested to the see that the see that the see that the basis for the exemption. So it is interested to the exemption of the see that the basis for the exemption of the see that the basis for the exemption of the see that the see that the basis for the exemption of the see that the basis for the exemption of the see that the basis for the exemption of the see that the basis for the exemption of the see that the	on received including cash, consideration. attructions.) d value (for local tax purpo	Diher, Including property primarily used in saming checks, checks, ses) of the real chions, x y the designated to obtain any appropriation of the real end any other related papers filed by
Conveyances with consideration or tgages, liens, encumbrance was like kind property exchan conveyances without full consistate being conveyed. Was like the greater, Line 2 or Limitiply Line 4 times 2% fax Due and Payable with the PART D - EXEMPT CONVEYAN If transaction is exempt from a complete and accounts and exchange the Line cessary federal income tax is teller which relate solely to the aw requires an income tax resworn and Subscribed before	COMPUTATION. Enter the amount of considerations, and any other good and valuable aged? Yes No (if yes, see Insideration, Enter the highest assesses the kind property exchanged? Yes interest assesses to kind property exchanged? Yes interest assess	on received including cash, consideration. structions.) d value (for local tax purpo	Diher, Including property primarily used in saming checks, checks, ses) of the real chions, (including market value of the real end of the
Conveyances with consideration or tgages, liens, encumbrance was like kind property exchanges to the conveyances without full consectate being conveyed. Was like the greater, Line 2 or Limitary Line 4 times 2%. Tax Due and Payable with the PART D - EXEMPT CONVEYAN If transaction is exempt from a complete and accounts and except the processary federal income tax is seller which relate solely to the aw requires an income tax re	COMPUTATION. Enter the amount of considerations, and any other good and valuable aged? Yes No (if yes, see Insideration, Enter the highest assesses the kind property exchanged? Yes interest assesses to kind property exchanged? Yes interest assess	on received including cash, consideration. attructions.) d value (for local tax purpo	Diser, including property primarily used in familing checks. checks. ses) of the real chions.) x x y be designated to obtain any appropriate and any other related papers filed by set or instrument being recorded. Delastion of real property within this state.

INSTRUCTIONS FORM 5402

REALTY TRANSFER TAX RETURN AND AFFIDAVIT OF GAIN AND VALUE

Every person who makes, executes, delivers, accepts, or presents for recording any document, except those exemptions defined or described in Section 5401 of Title 30, or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a Realty Transfer Tax at the rate of two percent (2%) of the value of the property represented by such document, which tax shall be payable at the time of making, execution, delivery, acceptance or presenting of such document for recording. Said tax is to be apportioned equally between the Grantor/Seller and Grantee/Buyer.

The following shall also be subject to the Realty Transfer Tax provisions:

- 1. Any writing purporting to transfer a title interest or possessory interest for a term of more than five (5) years in a condominium unit or any unit properties subject to the Unit Properties Act.
- 2. Any writing purporting to assign or transfer a leasehold interest or possessory interest in residential property under a lease for a term of more than five (5) years.
- 3. Any writing purporting to transfer a title interest in a mobile home which has been permanently affixed to realty by sewer, electric, and water connections.
- 4. Any writing purporting to transfer an intangible interest in a corporation, partnership, or trust where the beneficial owner(s) before the conveyance(s) owns less than 80% of the beneficial interest after the conveyance(s).

SPECIFIC INSTRUCTIONS

PART A - GRANTOR/SELLER

- **Line 1.** Enter the Grantor(s)/Seller(s) Federal Employer Identification or Social Security Number, whichever is used. If the Grantor/Seller has applied for a Federal Employer Identification Number, please enter "Applied For" on Line 1 and notify the Division of Revenue when the number is obtained.
- **Line 2.** Enter the name(s) of the Grantor(s)/Seller(s) [individual, partnership, or corporate name(s)].
- Line 3. Enter the address of the Grantor/Seller to which correspondence is mailed.
- **Line 4.** Check in the appropriate space whether a gain was or was not realized by the Grantor/Seller on the sale of the real estate conveyed.
- **Line 5.** Check the appropriate box to indicate whether the Grantor/Seller is a Resident or Non-Resident of the State of Delaware, a Domestic Corporation, Foreign Corporation, S Corporation, Government Agency, Fiduciary, Partnership, or Non-Profit Corporation.

PART B - GRANTEE/BUYER

- **Line 1.** Enter the Grantee(s)/Buyer(s) Federal Employer Identification or Social Security Number, whichever is used. If the Grantor/Seller has applied for a Federal Employer Identification Number, please enter "Applied For" on Line 1 and notify the Division of Revenue when the number is obtained.
- **Line 2.** Enter the name(s) of the Grantee(s)/Buyer(s) [individual, partnership, or corporate name(s)].
- **Line 3.** Enter the address of the Grantee/Buyer to which correspondence is mailed.
- **Line 4.** Check the appropriate box to indicate whether the Grantor/Seller is a Resident or Non-Resident of the State of Delaware, a Domestic Corporation, Foreign Corporation, S Corporation, Government Agency, Fiduciary, Partnership, or Non-Profit Corporation.

PART C - PROPERTY LOCATION AND VALUE AND COMPUTATION OF TAX

- **Line 1.** Enter the exact location of the real estate being conveyed.
- **Line 2.** Enter the amount of consideration received. Consideration includes cash, checks, mortgages, liens, encumbrances, and any other good and valuable consideration. If consideration also includes the exchange of like kind property, include the full and complete market value of the real estate received in determining the consideration to be taxed at two percent (2%).
- **Line 3.** Enter the highest assessed value (for local tax purposes) of the real estate being conveyed. If consideration includes the exchange of like kind property, include the full and complete market value of the real estate received in determining the consideration to be taxed at two percent (2%).
- **Line 4.** Enter the greater, Line 2 or Line 3.
- **Line 5.** Multiply Line 4 times 2%.
- **Line 6.** Enter the tax due and payable with the recording of this document. If the full amount of the Realty Transfer Tax (2%) is not paid on the conveyance, use the space in Part D to explain the calculation.
- **Line 7.** Check the appropriate box to indicate what type of property is being conveyed [Industrial/Commercial, Residential, Other, including property primarily used in farming].

PART D - EXEMPT CONVEYANCES

Explain the basis for the exemption from Realty Transfer Tax. Cite the Section of the exemption from Section 5401 of $30 \, \underline{Del}$. If known. If Section 5401(1)(j) is claimed as the basis for the exemption where property is transferred **from** a trustee, nominee, or straw party, attach a copy of the conveyance which shows the transfer **to** the trustee, nominee, or straw party to this return.

The Seller must sign his/her name and provide his/her title. The Return must be notarized and dated.